

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2005**

**SESSION LAW 2006-253**

**HOUSE BILL 1048**

AN ACT TO PROVIDE: (1) IMPROVED DETECTION OF IMPAIRED DRIVERS ON THE STATE'S ROADS AND HIGHWAYS; (2) IMPROVED METHODS OF DETERMINING HOW UNDERAGE DRIVERS OBTAIN ALCOHOL; (3) PROCEDURES FOR INVESTIGATING, ARRESTING, CHARGING, AND JUDICIAL PROCESSING OF IMPAIRED DRIVING OFFENSES; (4) RULES FOR THE COURTROOM ADMISSION OF EVIDENCE THAT IS RELEVANT TO IMPAIRED DRIVING OFFENSES; (5) CLARIFICATION ON WHEN A DRIVER IS GUILTY OF DRIVING WHILE IMPAIRED; (6) AGGRAVATED PENALTIES FOR OFFENDERS WHO SERIOUSLY INJURE OR KILL WHEN DRIVING WHILE IMPAIRED; (7) A SYSTEM OF REPORTING BY STATE PROSECUTORS AND THE COURTS ON THE DISPOSITION OF IMPAIRED DRIVING OFFENSES; (8) ELECTRONIC MONITORING AFTER AN IMPAIRED DRIVER HAS BEEN RELEASED FROM CONFINEMENT; (9) FOR THE SEIZURE AND FORFEITURE OF THE VEHICLE WHERE A PERSON IS DRIVING WHILE IMPAIRED WITHOUT A LICENSE OR INSURANCE; (10) OTHER MEASURES DESIGNED TO IMPROVE THE SAFETY OF THE MOTORING PUBLIC OF NORTH CAROLINA; AND TO PROVIDE THAT THE ACT SHALL BE KNOWN AS "THE MOTOR VEHICLE DRIVER PROTECTION ACT OF 2006."

The General Assembly of North Carolina enacts:

**SECTION 1.** This act shall be known as "THE MOTOR VEHICLE DRIVER PROTECTION ACT OF 2006."

**PART I. REGULATING MALT BEVERAGE KEGS**

**SECTION 2.** G.S. 18B-101 is amended by adding a new subdivision to read:

"(7b) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage."

**SECTION 3.1.** Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-403.1. Purchase-transportation permit for keg or kegs of malt beverages.**

(a) Purchase-Transportation. – A person who is not a permittee may purchase and transport for off-premises consumption a keg or kegs as defined in G.S. 18B-101(7b) after obtaining a purchase-transportation permit. Failure to obtain a purchase-transportation permit according to this section is a violation of G.S. 18B-303(b).

(b) Issuance. – A person holding a permit (permittee) pursuant to G.S. 18B-1001(2) shall issue a purchase-transportation permit for a keg or kegs of malt beverage to a purchaser. A copy of the purchase-transportation permit shall be maintained by the permittee for 90 days. Upon request by any person, the permittee shall maintain the permit for a requested period in excess of 90 days.

(c) Form. – A purchase-transportation permit shall be issued on a printed form adopted and provided by the Commission. The Commission shall adopt rules specifying the content of the permit form.

(d) Restrictions on Permit. – A purchase may be made only from the store named on the permit. One copy of the permit shall be kept by the purchaser and one by the permittee from whom the purchase is made. The purchaser shall display his copy of the permit to any law enforcement officer upon request.

(e) Violation. – The first violation of this section by a permittee shall result in a warning to the permittee."

**SECTION 3.2.** G.S. 18B-303(a) reads as rewritten:

"(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- (1) Not more than 80 liters of malt ~~beverages, other than draft malt beverages in kegs;~~ beverages, except draft malt beverages in kegs for off-premises consumption. For purchase of a keg or kegs of malt beverages for off-premises consumption, the permit required by G.S. 18B-403.1(a) must first be obtained;
- (2) Any amount of draft malt beverages ~~by a permittee in kegs;~~ kegs for on-premise consumption;
- (3) Not more than 50 liters of unfortified wine;
- (4) Not more than eight liters of either fortified wine or spirituous liquor, or eight liters of the two combined."

**PART XIV. MAKING IT ILLEGAL FOR A PERSON UNDER 21 YEARS OF AGE TO CONSUME AS WELL AS POSSESS ALCOHOL AND TO ALLOW ALCOHOL SCREENING DEVICES TO BE USED TO PROVE A PERSON HAS CONSUMED ALCOHOL**

**SECTION 26.** G.S. 18B-302 reads as rewritten:

**"§ 18B-302. Sale to or purchase by underage persons.**

(a) Sale. – It shall be unlawful for any person to:

- (1) Sell or give malt beverages or unfortified wine to anyone less than 21 years old; or
- (2) Sell or give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(b) ~~Purchase or Possession.~~ Purchase, Possession, or Consumption. – It shall be unlawful for:

- (1) A person less than 21 years old to purchase, to attempt to purchase, or to possess malt beverages or unfortified wine; or
- (2) A person less than 21 years old to purchase, to attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed ~~beverages.~~beverages; or
- (3) A person less than 21 years old to consume any alcoholic beverage.

...

(i) ~~Purchase or Possession~~Purchase, Possession, or Consumption by 19 or 20-Year Old. – A violation of subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a Class 3 misdemeanor.

(j) Notwithstanding any other provisions of law, a law enforcement officer may require any person the officer has probable cause to believe is under age 21 and has consumed alcohol to submit to an alcohol screening test using a device approved by the Department of Health and Human Services. The results of any screening device administered in accordance with the rules of the Department of Health and Human Services shall be admissible in any court or administrative proceeding. A refusal to submit to an alcohol screening test shall be admissible in any court or administrative proceeding.

(k) Notwithstanding the provisions in this section, it shall not be unlawful for a person less than 21 years old to consume unfortified wine or fortified wine during participation in an exempted activity under G.S. 18B-103(4), (8), or (11)."

**PART XVI. PREVENT NONCOMPLIANT PERMIT HOLDERS FROM CONTINUING IRRESPONSIBLE ALCOHOL SERVICE PRACTICES BY SWITCHING PERMITS TO ANOTHER NAME**

**SECTION 28.** G.S. 18B-1003(c) reads as rewritten:

"(c) Certain Employees Prohibited. – A permittee shall not knowingly employ in the sale or distribution of alcoholic beverages any person who has been:

- (1) Convicted of a felony within three years;
- (2) Convicted of a felony more than three years previously and has not had his citizenship restored;
- (3) Convicted of an alcoholic beverage offense within two years; or
- (4) Convicted of a misdemeanor controlled substances offense within two years.
- (5) A past permit holder under Chapter 18B of the General Statutes whose permit had been revoked within the last 18 months and who had been the permit holder at the location where the person would be employed.

For purposes of this subsection, "conviction" has the same meaning as in G.S. 18B-900(b). To avoid undue hardship, the Commission may, in its discretion, exempt persons on a case-by-case basis from this subsection."

**The remainder of this act becomes effective December 1, 2006, and applies to offenses committed on or after that date.**

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of July, 2006.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House  
Representatives

s/ Michael F. Easley  
Governor

Approved 11:50 a.m. this 21<sup>st</sup> day of August, 2006